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Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the fourth periodic report of Paraguay*

1. The Committee on Economic, Social and Cultural Rights considered the fourth periodic report of Paraguay on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/PRY/4) at its 2nd and 3rd meetings, held on 23 and 24 February 2015 (E/C.12/2015/SR.2 and 3), and adopted, at its 19th meeting, held on 6 March 2015, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Paraguay, the core document (HRI/CORE/PRY/2010) and the replies to the list of issues (E/C.12/PRY/Q/4/Add.1), and appreciates the fact that the State party provided an English translation of those replies. The Committee also welcomes the constructive dialogue held with the State party's high-level delegation, which was composed of experts from various ministries and is pleased to have received the additional information offered during the dialogue.

B. Positive aspects

3. The Committee notes with satisfaction the State party's ratification of the following international instruments:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance, on 3 August 2010;

(b) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on 23 September 2008;

(c) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 3 September 2008.

4. The Committee welcomes the adoption of:

(a) The Languages Act No. 4251 of 12 December 2010;

* Adopted by the Committee at its fifty-fourth session (23 February to 6 March 2015).

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(b) Act No. 4088 of 13 September 2010 establishing free compulsory primary education for children 6 to 14 years of age;

(c) Decree No. 11,416 of 17 July 2013 establishing universal free provision throughout the country of all health services offered by the Ministry of Public Health and Social Welfare.

5. The Committee welcomes the State party's efforts to integrate a human rights approach in the planning, design, implementation, monitoring and evaluation of social programmes and policies. In particular, the Committee welcomes:

(a) The creation in 2014 of a system for monitoring international recommendations made by the various human rights mechanisms;

(b) The formulation in 2014 of a national plan on the rights of persons with disabilities;

(c) The adoption in 2012 of the National Plan for Human Rights Education;

(d) The implementation of the Tekoporã and Abrazo Programmes.

C. Principle subjects of concern and recommendations

Right to dispose freely of natural wealth and resources

6. The Committee is concerned that the State party still does not have a legal mechanism for ensuring that prior, free and informed consent is obtained from indigenous peoples in relation to decisions that may affect the exercise of their economic, social and cultural rights. The Committee also notes with concern that a significant number of indigenous peoples either still lack land or have not obtained legal recognition for their land and that, even when their lands have been registered, they may still be victims of forced eviction. In addition, the Committee is concerned about the fact that the State party has not yet legally recognized the right of indigenous peoples to dispose freely of their natural wealth and resources or put in place an effective mechanism to enable them to claim their ancestral lands (art. 1).

In the light of its previous recommendation (E/C.12/PRY/CO/3, para. 23 (b)), the Committee urges the State party to:

(a) Take the legislative and administrative measures needed to ensure that free, prior and informed consent is obtained from indigenous peoples in relation to decisions that may directly affect the exercise of their economic, social and cultural rights;

(b) Adopt, without delay, the measures needed, including legal recognition and protection, to ensure that indigenous peoples are able to exercise their right to dispose freely of their lands, territories and natural resources;

(c) Take all necessary measures to prevent members of indigenous peoples from being forcibly displaced from the lands and territories they occupy;

(d) Take the measures needed to put in place a legal mechanism to enable indigenous peoples to claim lands.

Applicability of the Covenant

7. The Committee is concerned that the State party has not provided specific information about cases of direct applicability of the Covenant in domestic courts (art. 2, para. 1).

On the basis of its general comment No. 9 (1998) on domestic application of the Covenant, the Committee requests the State party to include in its next periodic report specific information on the legally enforceable nature of the rights enshrined in the Covenant, including cases of direct application of the Covenant by domestic courts.

Institutional functioning

8. The Committee is concerned that some public sector institutions have insufficient capacity to ensure compliance with laws and public policies for the promotion and protection of economic, social and cultural rights, due, in part, to the inadequate financial, human and technical resources allocated to the responsible institutions and to inconsistent cooperation between those institutions and civil society organizations (art. 2, para. 1).

The Committee recommends that the State party redouble its efforts to strengthen the public sector institutions that are working to promote and protect human rights, especially economic, social and cultural rights, by, inter alia, allocating adequate financial, human and technical resources which make it possible for them to perform their functions effectively. The Committee also recommends that the State party reinforces constructive cooperation with civil society organizations engaged in the promotion and protection of human rights.

Ombudsman's Office

9. The Committee is concerned that a new Ombudsman has not been appointed since 2008. This situation seriously undermines the independence, legitimacy and effectiveness of the national human rights institution. The Committee notes with concern that the Office's "A" category accreditation has been suspended by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (art. 2, para. 1).

The Committee urges the State party to take immediate steps to carry out a transparent and participatory process of selecting and appointing an Ombudsman. The Committee recommends that the State party take the legislative and administrative measures needed to ensure that the Ombudsman's Office complies fully with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

Investment in social expenditure

10. The Committee takes note of the information provided by the delegation on the introduction of an income tax; however, the Committee remains concerned about the low level of tax collection in the State party, which limits public social investment (art. 2).

The Committee recommends that the State party take the measures needed to ensure that its tax policy is socially just, with a view to improving tax collection and thus increasing the availability of resources for the implementation of economic, social and cultural rights. The Committee also recommends that the State party take the necessary steps to ensure effective and transparent application of the income tax.

Corruption

11. The Committee is concerned that, despite the State party's efforts, the implementation of anti-corruption measures remains inadequate. The Committee is also concerned about the lack of information on cases of corruption that have been effectively investigated and the offender punished (art. 2, para. 1).

The Committee recommends that the State party address, as a matter of priority, the underlying causes of corruption and that it take all necessary legislative and administrative measures to ensure transparency in public administration, both in law and in practice, to combat corruption and to fight effectively against impunity in this area. The Committee urges the State party to raise awareness among politicians, lawmakers and national and local government officials about the negative effects of corruption on the enjoyment of economic, social and cultural rights and to raise awareness among judges, prosecutors and the police about the need for strict enforcement of the law.

Independence of the judiciary

12. The Committee is concerned about the lack of independence of judiciary officials in the State party (art. 2, para. 1).

The Committee recommends that the State party take the legal, administrative and other measures needed to ensure the independence of the judiciary so as to safeguard the enjoyment of human rights, including economic, social and cultural rights.

Non-discrimination

13. The Committee is concerned that the anti-discrimination bill which was under discussion in the Senate has not been adopted. It is also concerned that the State party has not adopted effective measures to combat the persistent discrimination suffered by members of indigenous peoples, persons of African descent, persons with disabilities and lesbian, gay, bisexual and transgender persons, in particular with regard to ensuring the effective exercise of their economic, social and cultural rights (art. 2, para. 2).

The Committee recommends that the State party expedite the adoption of anti-discrimination legislation that will ensure adequate protection against discrimination in accordance with article 2, paragraph 2, of the Covenant, bearing in mind the Committee's general comment No. 20 (2009) on non-discrimination and economic, social and cultural rights, and that it, inter alia:

(a) Explicitly include in its general anti-discrimination legislation all prohibited grounds of discrimination listed in article 2, paragraph 2, of the Covenant;

(b) Define direct and indirect discrimination in accordance with the obligations incumbent upon the State party under the Covenant;

(c) Prohibit discrimination in both the public and the private spheres;

(d) Put in place effective judicial and administrative mechanisms to protect against discrimination, including through the incorporation of provisions for redress in cases of discrimination;

(e) Take the measures needed to prevent and combat persistent discrimination against all disadvantaged or marginalized individuals or groups, including through awareness-raising campaigns, in order to ensure their full enjoyment of the rights recognized under the Covenant, in particular access to employment, social security, health care and education.

Equality between men and women

14. The Committee is concerned about the persistent inequality between men and women, particularly in access to education, employment, health services and social security. The Committee notes with concern that women living in rural areas and indigenous women

continue to suffer multiple and intersectional discrimination, which is reflected in the high levels of poverty in which they live (art. 3).

In the light of its general comment No. 16 (2005) on the equal rights of men and women to the enjoyment of economic, social and cultural rights (art. 3 of the Covenant), the Committee recommends that the State party:

(a) Take the necessary legislative and other measures to eliminate persistent inequality between men and women and to promote full access to education, employment, health services, social security and access to land;

(b) Take measures to eliminate the multiple and intersectional discrimination faced by women living in rural areas and indigenous women, including by incorporating the principle of gender equality in resource allocation and in poverty reduction policies.

Unemployment and underemployment

15. The Committee notes with concern the high rates of unemployment and underemployment and the scale of the informal sector of the economy, within which basic social and labour protection is lacking (arts. 6 and 7).

The Committee encourages the State party to step up its efforts to increase employment opportunities in the formal labour market and to take the measures needed to effect the progressive transfer of workers from the informal economy to the formal sector.

Working conditions for women

16. The Committee notes with concern the persistence of practices that discriminate against women with respect to working conditions, including high rates of underemployment, unfair dismissal, lack of employment contracts and lower wages than men (arts. 6 and 7).

The Committee recommends that the State party take the measures needed to ensure equality with respect to working conditions, including fair wages and equal remuneration for work of equal value, and to promote women's advancement in the labour market, including by conducting training for men and women on equal career opportunities.

Right to work of persons with disabilities

17. The Committee notes with concern that, despite the measures taken by the State party to promote the employment of persons with disabilities in the public and private sectors, such persons continue to suffer discrimination in access to employment (art. 6).

The Committee recommends that the State party take effective measures to promote the employment of persons with disabilities and to protect them from discrimination in the workplace. In particular, the Committee recommends that the 5 per cent quota that the State party allocates to persons with disabilities in the public sector be extended to the private sector as well. The Committee also recommends that the State party establish a legal requirement for reasonable accommodations in the workplace and adopts the measures needed to ensure their implementation, including through labour inspections, and also to ensure the application of all legal norms and provisions designed to guarantee non-discrimination and the right to work of persons with disabilities.

Minimum wage

18. The Committee is concerned that the minimum wage established by the State party is not sufficient to ensure a decent standard of living for workers and their families and that a large number of workers receive less than the statutory minimum wage (art. 7).

The Committee urges the State party to take the legislative and administrative measures needed to ensure that all workers receive a minimum wage that enables them to attain decent living conditions for themselves and their families, in keeping with the provisions of article 7 (a) (ii) of the Covenant.

Forced labour

19. The Committee notes with concern reports that many workers, especially indigenous workers, are victims of forced labour on farms and ranches in the Paraguayan Chaco (art. 7).

The Committee urges the State party to adopt immediate and effective measures to eradicate forced labour and ensure that victims receive the appropriate protection and that offenders are duly prosecuted and punished in accordance with the severity of the offence.

Domestic work and labour inspections

20. The Committee notes with concern that the State party has made no progress in eliminating either discriminatory legal provisions or discriminatory practices in domestic work. The Committee also notes with concern the deficiencies in the labour inspection system, in particular the scant financial, human and technical resources at its disposal (art. 7).

The Committee repeats its previous recommendation (E/C.12/PRY/CO/3, para. 26) and urges the State party to amend the articles of the Labour Code that establish discriminatory conditions for domestic work and to continue its efforts to strengthen the inspection service under the Ministry of Labour, Employment and Social Security by allocating to it the financial, human and technical resources it needs to operate effectively.

Trade union rights

21. The Committee is concerned that the exercise of trade union rights is subject, both in law and in practice, to excessive restrictions, such as the 300-employee minimum requirement for the establishment of a trade union. The Committee is also concerned about cases of mass layoffs of trade union members and leaders (art. 8).

The Committee urges the State party to bring its legislation on trade union rights into line with article 8 of the Covenant and with the provisions of the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98). It also calls on the State party to protect trade union rights and effectively investigate all reports of violations of these rights that are brought to its attention, and to establish adequate compensation for the workers affected.

Social security

22. The Committee takes note of the State party's efforts to strengthen social protection measures, including through the establishment of conditional cash transfer programmes, such as the Tekoporã and Abrazo Programmes. However, the Committee is concerned that the State party still lacks a universal social protection system and that a high percentage of the population does not receive social protection of any sort (art. 9).

Bearing in mind its general comment No. 19 (2008) on the right to social security (art. 9 of the Covenant) and the ILO Social Protection Floors Recommendation, 2012 (No. 202), the Committee urges the State party to continue its efforts to develop a social security system that will guarantee broad social coverage and appropriate benefits for all workers and all underprivileged persons and families so that they may enjoy decent living conditions. The Committee also urges the State party to step up its efforts to define minimum social protection floors that include basic social security guarantees.

Child labour

23. The Committee is concerned that child labour remains widespread in the State party, particularly in the agricultural sector and in domestic work through the practice of *criadazgo* (exploitation of child domestic workers) (art. 10).

The Committee exhorts the State party to step up the fight against child labour by, inter alia, ensuring that the law protecting children against economic exploitation is vigorously enforced and strengthening child labour oversight mechanisms. The Committee recommends that the State party adopt measures to strengthen prevention programmes and eliminate the economic exploitation of children.

Poverty

24. The Committee is concerned about the persistently high rates of poverty and, especially, extreme poverty in the State party, which especially affect indigenous peoples and persons living in rural areas. The Committee is also concerned that agrarian reform policies have not been adequately implemented, which has an impact on the persistent inequality in income and wealth in the State party, particularly among persons living in rural areas (art. 11).

In the light of its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (2001), the Committee recommends that the State party:

(a) Intensify its efforts to combat poverty and, especially, extreme poverty, ensure that existing social programmes in this domain are implemented using a human rights-based approach, are allocated sufficient resources for implementation and pay due attention to the disparities and gaps between urban and rural areas;

(b) Adopt effective measures to fight inequality, taking into account the needs of the most underprivileged and marginalized population groups, in particular indigenous peoples and persons living in rural areas;

(c) Take the steps needed to ensure the effective, transparent and participatory implementation of agrarian reform, which, according to the State party's Constitution, is one of the key elements in achieving rural well-being.

Impact of soybean cultivation

25. The Committee repeats its previously expressed concern (E/C.12/PRY/CO/3, para. 16), particularly regarding the adverse effects of extensive soybean cultivation in the State party, especially in terms of environmental degradation, the indiscriminate use of toxic agrochemicals, contamination of the water supply and food insecurity (arts. 11 and 12).

The Committee reiterates its previous recommendation (E/C.12/PRY/CO/3, para. 27) and urges the State party to take the measures needed to ensure that soybean cultivation does not undermine the enjoyment of economic, social and cultural rights, especially the right to a decent standard of living and to food, water and health. The Committee further urges the State party to put in place an effective legal framework

for environmental protection, including, in particular, protection against the use of toxic agrochemicals, which establishes appropriate penalties for offenders and adequate compensation for the persons affected.

The right to adequate food

26. The Committee notes with concern that, despite the State party's efforts, rates of undernutrition in the general population and rates of malnutrition in children remain very high.

The Committee recommends that the State party redouble its efforts to protect the right to adequate food and step up initiatives to effectively address food insecurity and child malnutrition, especially in rural areas. The Committee further recommends that the State party expedite the adoption of the bill on food and nutrition security.

Right to decent housing, water and sanitation

27. The Committee notes with concern that, despite the measures taken by the State party, a significant housing shortage remains. It is also concerned about the lack of drinking water and sanitation services, particularly in rural areas (art. 11).

Bearing in mind its general comment No. 4 (1991) on the right to adequate housing, general comment No. 15 (2002) on the right to water and its statement on the right to sanitation (2011), the Committee recommends that the State party adopt all necessary measures to improve the availability and supply of low-cost housing, especially for underprivileged and marginalized individuals and groups. The Committee also recommends that the State party ensure the provision of safe and affordable drinking water and sanitation, especially in rural areas.

Right to health

28. The Committee welcomes the State party's efforts to improve access to health-care services, including by providing such services free of charge. The Committee is nonetheless concerned about the insufficient financial and human resources, the inadequate supply of medicine and the poor quality and availability of health-care services, especially in remote and rural areas.

The Committee recommends that the State party allocate sufficient resources to the health sector and continue its efforts to ensure the accessibility, availability and quality of health care, particularly in remote and rural areas. The Committee specifically recommends that the State party improve the infrastructure of the primary care system and ensure that hospitals have the medical staff, supplies and medicines needed to deal with emergency cases.

Sexual and reproductive health

29. The Committee is concerned that, despite the State party's efforts, teenage pregnancy and maternal mortality rates remain high, a situation due, in part, to the lack of adequate sexual and reproductive health services and information and the large number of unsafe abortions (art. 12).

In the light of its previous recommendation (E/C.12/PRY/CO/3, para. 32), the Committee recommends that the State party:

(a) Take the necessary legislative and administrative measures to prevent maternal mortality and morbidity, taking into account the technical guidance provided by the Office of the United Nations High Commissioner for Human Rights

(OHCHR) on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality (A/HRC/21/22);

(b) Amend its legislation on the prohibition of abortion in order to render it compatible with other fundamental rights, such as women's rights to health, life and dignity;

(c) Intensify its efforts to ensure the accessibility and availability of sexual and reproductive health care and information, especially in rural areas;

(d) Expand and strengthen comprehensive, age-appropriate sexual and reproductive health education for both sexes in all schools, and also in informal settings.

Right to education

30. The Committee remains concerned that, despite the considerable progress made in extending education coverage, disparities persist between urban and rural schools in terms of accessibility, quality and infrastructure, which particularly affect indigenous children, children living in remote areas and children with disabilities. The Committee is also concerned that many rural schools do not have adequate, separate toilet facilities for each sex, a situation which could have a deterrent effect on school attendance among girls and teenagers (art. 13).

In the light of its general comment No. 13 (1999) on the right to education (art. 13 of the Covenant), the Committee recommends that the State party take the necessary steps to ensure that the education system is available and accessible for all children, including children with disabilities, by promoting inclusive education. It further recommends that the State party improve the quality and infrastructure of schools, especially in rural areas, and ensure that all schools in rural areas have adequate water and sanitation infrastructures, including, in particular, separate toilet facilities for each sex.

Use of indigenous languages

31. The Committee notes that, notwithstanding the efforts made, the measures adopted to promote the use of the Guaraní language have been limited and that its use is not encouraged in a comprehensive enough manner, particularly in the education system. The Committee is concerned about the lack of sufficient measures to promote the preservation and use of other indigenous languages (art. 15).

The Committee recommends that the State party take the measures needed to effectively foster the use of Guaraní as an official language. The Committee also recommends that the State party adopt the measures needed to promote the preservation and use of other indigenous languages.

D. Other recommendations

32. **The Committee recommends that the State party encourage systematic data collection and the production and use of statistics for human rights indicators, including indicators of economic, social and cultural rights, based on these data. In this respect, it refers the State party to the conceptual and methodological framework for human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3). The Committee requests that the State party include in its next periodic report statistical data on the enjoyment of**

each Covenant right, disaggregated by age, sex, ethnic origin, urban/rural population and other relevant status, on an annual comparative basis.

33. **The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, in particular among indigenous peoples, public servants, judicial authorities, lawmakers, lawyers and civil society organizations, and to inform the Committee in its next periodic report on the steps taken to implement them. It also encourages the State party to engage civil society organizations in the discussions to be held at the national level prior to the submission of its next periodic report.**

34. **The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

35. **The Committee invites the State party to update its core document in accordance with the consolidated guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).**

36. **The Committee requests the State party to submit its fifth periodic report in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2) by 30 March 2020 at the latest.**